

CRITERIA FOR DETERMINING LEVEL OF SANCTION

In determining the level of sanction to be recommended by Disciplinary Counsel, including whether discipline should be private or public, the following criteria will be considered, upon a finding of Disciplinary Counsel that facts exist which could result in the establishment of a violation by clear and convincing evidence:

1. Whether the conduct is an isolated instance or evidences a pattern of conduct.
2. The nature, extent and frequency of the acts of misconduct.
3. Whether the misconduct occurred in or out of the courtroom.
4. Whether the conduct occurred while the judge was acting in an official capacity.
5. Whether the judge has acknowledged or recognized the occurrence, nature and impropriety of the acts.
6. Whether the judge has evidenced a effort to change or modify conduct.
7. The judge's length of service on the bench.
8. Whether there have been prior complaints about the judge, except where prior complaints have been found frivolous, unfounded, or without jurisdiction.
9. The effect of misconduct upon the integrity of, and respect for, the judiciary.
10. The extent to which the judge exploited the judicial position for personal gain or satisfaction.

A finding unfavorable to the judge on one or more of these criteria will result in disciplinary counsel considering a recommendation for public sanction.

In addition to the this criteria which must be considered by both the investigative panel and the court pursuant to TCA 17-5-301(i), the Disciplinary Counsel shall consider whether both the judge and the public would benefit from a deferred disciplinary agreement with a condition that the judge receive professional assistance or augmented training in connection with his willingness to amend behavior which gave rise to the complaint.